

This is a record of my January 15, 2019 meeting with Misha Isaak and Emily Matasar of Governor Kate Brown's office. I am writing this the day after the meeting with Misha and Emily.

This meeting was called at my request after a previous meeting in which Misha and Emily in which Misha disagreed with several of the points made in the Public Records Advisory Council's November 30, 2018 report. Todd Albert, Deputy Public Records Advocate, was also present at that prior meeting, which took place on January 7, 2019. During the January 7, 2019 meeting, Misha instructed me and Todd that if we planned to file future reports, we should send them to the Governor's office prior to filing so that the Governor's office could comment. It was left ambiguous whether these comments would be binding or simply advisory.

In a followup conversation with Emily Matasar, I asked what the timeline was for sending reports to the Governor's office and attempted to clarify whether the Office of the Public Records Advocate or the Public Records Advisory Council were required to receive authorization from the Governor's office before filing reports or publicly releasing them. Emily indicated that the Governor's office wanted the opportunity to comment on any reports but was uncertain of whether or not the Public Records Advocate or Council needed authorization. She suggested that we set up a meeting with Misha. That meeting was set for January 15, 2019.

The January 15, 2019 meeting began with Misha stating that he had reviewed ORS 192 and his interpretation of it is that the Public Records Advocate works for the Governor's Office. He recalled that in conversations with DAS during the spring of 2018, DAS had stated that it did not think it was appropriate for DAS to supervise the Advocate. The Governor's Office then assumed supervisory responsibilities. None of this had previously been conveyed to me. In prior conversations with multiple parties, including the Governor's office, it had been stated that the Advocate was intended to be independent. When I had asked in Spring 2018 who I would report to, the Governor's office replied that I did not report to them. When I raised that point in this meeting, Misha stated that the legislature had put some measures in the Advocate bill that would create some independence, he was of the opinion that that independence was only vis-à-vis the daily operations of the Office (it's mediation and training), but that for political matters and matters of policy, the Advocate worked for the Governor and the Governor's office is free to intercede. Misha conveyed that it is his interpretation that the core functions of the office are mediation and training, when I mentioned the Advocate's position as Chair of the Council, he stated that the Council was only meant to be a temporary body, and that chairing it was not core to the Advocate's duties.

When I raised the point that the Advocate Office is an ombuds office, Emily stated emphatically that it is not an ombuds office, it is an Advocate office, and there is a difference.

Misha then conveyed that in his interpretation he is the supervisor of the Advocate and that the weekly meetings I had had with Emily were, in fact, supervisory check-ins. This had never been conveyed to me before. It was my understanding that those meetings were a friendly effort by the Governor's office to keep up with the

work of the Advocate and the Council, to offer advice and feedback, and to exchange information.

The meeting then turned to matters related to the legislative session. I had previously asked for advice regarding how to manage reporter inquiries on pending legislation. I had raised this question because it had been conveyed to me in several DAS trainings that agency officials are not to comment on pending legislation. Misha conveyed that this was the case and that I was to reply "I have not taken a position on that legislation." I accepted this without dispute.

Misha then directed the discussion to another issue that he disagreed with, the Council's choice to exclude local entities from its proposed bill regarding annual reporting requirements – this was also discussed in the context of another bill submitted by an outside group which had stuck a similar compromise. Misha conveyed to me that by doing that the Council (and the third parties pushing the other bill) had put the Governor in an awkward position of having to potentially oppose bills herself instead of relying on stakeholders and lobbyists for cities, counties, and special districts to oppose the bills. When I stated that I did not have control over the proposals that the Council agrees to and that this was a compromise that had allowed a bill to reach consensus agreement, he stated that I should be considering the effect this has on the Governor's office. I pointed out that there were other representatives of state government on the Council who could have objected and he said that there were reasons several of them would not object and that DAS' representative should not have to shoulder the burden of objecting. He implied that it was my job to control what proposals were put forth to the Council and, ultimately, what proposals were agreed upon by the Council and, in doing that, I should be operating with the Governor's office agenda in mind. I pointed out that limiting the provisions to state agencies made it more likely that they would gain consensus, especially in light of the fact that there are several lobbyists who represent localities on the Council. He also stated that in the future I should not prioritize creating consensus policy proposals over the political considerations of the Governor's office. He stated that in the future I should keep the Governor's office in the loop regarding Council proposals (note: Emily had been present at most of the Council meetings, which are public meetings, available for call-in participation and afterward for streaming online). I stated my discomfort with being put in the position of advocating for an agenda which I was not free to disclose or discuss with the Council. This objection was not really discussed.

In the spirit of cooperation, I then asked if they had suggestions for what the Council should focus on in the coming year. They suggested a meeting with the Governor to discuss her ideas regarding policy priorities.

Toward the end of the meeting, Misha conveyed to me that they were impressed with the fact that I had been able to set up the office, conduct so many trainings, and give assistance to so many individuals. However, he said that I should be less ambitious, not move so fast, and recognize that I do not know about the politics or nuance of Oregon. Thus, I should "listen" and not attempt to propose reforms about things I did not fully understand. I should, instead, rely on the Governor's office to make decisions about these things. This part of the meeting felt both demeaning and condescending. Nowhere in this discussion was an acknowledgement that I am

a professional, with a decade of specialized experience in politics, reform, public records, advocacy and government. It was both disrespectful and unnecessarily hostile. Despite the offensiveness of the situation, I listened patiently and cordially.

The meeting concluded with an uncomfortable statement by Misha that he is concerned that I will leave the meeting and call Nick Budnick [a reporter] and tell him that the Governor's office is trying to censor me. This conveyed to me that I was expected to keep this meeting, including the fact that the Governor's office interpreted ORS 192 to mean that I report to them, a secret. This expectation of secrecy made me feel uncomfortable. It felt both unethical and dishonest.

• • •

Addendum to January 15, 2019 Meeting with Misha and Emily memo.
Todd Albert, my Deputy, was initially to be included in this meeting. However, at the request of the Governor's office in the below email thread, he was cut out of the meeting.

From: ISAAK Misha * GOV

Sent: Monday, January 14, 2019 11:39 AM

To: MCCALL Ginger * PRC <Ginger.MCCALL@oregon.gov>; MATASAR Emily * GOV <Emily.MATASAR@oregon.gov>

Subject: RE: MuckRock on SB 609

Hi Ginger. Let's add this to our list of things to discuss when we meet tomorrow.

Also, I saw that Todd was included in tomorrow's meeting. My preference is that we keep it to the three of us (Emily, you, and me).

Thanks - looking forward to connecting tomorrow.

Misha

Misha Isaak

General Counsel

Office of Governor Kate Brown

Legal Assistant: Shevaun Gutridge

(503) 378-6246 (w)

(503) 378-6827 (f)

From: MCCALL Ginger * PRC <Ginger.MCCALL@oregon.gov>

Sent: Monday, January 14, 2019 9:23 AM

To: MATASAR Emily * GOV <Emily.MATASAR@oregon.gov>; ISAAK Misha * GOV <Misha.ISAAK@oregon.gov>

Cc: ALBERT Todd * PRC <Todd.ALBERT@oregon.gov>

Subject: FW: MuckRock on SB 609

Hi Misha and Emily,

One of the things that I was hoping to discuss tomorrow was how to respond to emails like the below. Do you have recommendations for how I should handle this?

It is my personal and professional opinion that the bill in question is a step backward for public records requesters and would create additional unnecessary barriers for access to public records.

But having not been through a legislative session before, I am uncertain about whether or not I can say that publicly. It is my impression, based on what I have

heard from DAS, that it would be unusual to comment on a bill. However, it is also my understanding that the Office of the Public Records Advocate is somewhat differently situated than other agencies and I have gotten the strong impression that the media and the public expect me to be candid and offer opinions on bills like this. To not do so would likely undercut the public's perception of the independence of the Office of the Public Records Advocate.

I would appreciate your thoughts on this when you have a chance, even if they are, for now, reserved to how to manage this particular email.
Thank you.

Ginger P. McCall

Oregon Public Records Advocate
800 Summer St. NE
Salem, OR 97301
503-378-5228 (desk)

From: Jessie Gomez [<mailto:jessie@muckrock.com>]
Sent: Monday, January 14, 2019 9:11 AM
To: MCCALL Ginger * PRC <Ginger.MCCALL@oregon.gov>
Subject: MuckRock on SB 609

Hi Ginger,

This is Jessie Gomez from MuckRock, hope all is well!

Wondering if your office had any comment on SB 609, which would require requesters to state their intended use for records requested. In that similar vein, a general statement on all the proposed bills for the 2019 session would also work. I'm on deadline for today. A written statement works well if today proves a bit busy. Thanks!

--

Jessie Gomez
FOIA Fellow, MuckRock
Sign up for MuckRock's newsletter: <http://bit.ly/2hRqnXO>

• • •

6/6/19 meeting with Emily Matasar at Ike Box Café

Immediately upon sitting down, Emily expressed extreme unhappiness with my 5/31/19 email to the Public Records Advisory Council regarding the Office of the Public Records Advocate's budget. She stated that the email made it look like I was trying to get others to lobby the Governor's office on behalf of my office and that several unnamed people from the Council had forwarded it to her. She said that others in her office had been unhappy with this, including Misha and that I was "going to" do two things immediately: send out an email telling the PRAC that I was mistaken about the budget and add her to the PRAC email list.

I expressed to Emily that it was not my intention to get anyone to lobby the Governor's office. On the contrary, the intention of my email was to try to find another way that didn't require us to be included in the Governor's omnibus bill

(which Emily had previously said she could give me no assurances about). My email was expressly asking the Councilmembers for their advice about what to do regarding the budget situation and HB 2431 (which was languishing in Ways and Means after a fiscal assessment by DHS).

Emily said that she thought she had been clear in our prior meeting that I had “nothing to worry about” with my budget. I told her that in the prior meeting she had simply mentioned several options – including the Emergency Board – which I could potentially explore. I told her that I did not walk away from that meeting with the impression that our budget issues were resolved, which was why I went to the Council to seek advice and why I reached out to LFO and others.

Emily recommended that I not send out emails or make statements that make it look like I am “opposed to” or “outside” of the Governor’s office. I said that my office was supposed to have independence and has in the past been treated like we are outside. I cited as an example that I (and not the Governor’s Office) had been responsible for finding a way to introduce the Council’s two bills. She stated that she had clearly signaled to me the prior fall that she did not like the Council’s annual reporting bill (HB 2431) and that she did not think that the Council (or I) should have proposed it. I stated that I recalled no such conversation before the conversation that she and Misha and I had in January when Misha made it clear that he objected to the bill because it did not include localities (thus the city, county, and special district associations would not lobby against it) and that left the Governor in the awkward position of having to potentially oppose it herself. I again stated that the bills were the Council’s bills, not my bills, and that the Council had proposed excluding the localities, and that the Council was a democratic body which I did not have complete control over. I asked her what she expected me to do in that scenario and she said “tell them that the bill is unacceptable.” I said that I didn’t view the compromise as unacceptable because though it is imperfect it was essential for getting the bill passed, understandable because it had previously been employed in the bill that created my office, and excusable because the state agencies are differently situated than the special districts. I expressed that it was not my intention to alienate anyone or create conflict, but that it was my impression that I was meant to act independently.

I told her that we seemed to be once again running into a misunderstanding about my role and my office’s role. I reasserted that it was my impression that this office was meant to be independent and that I had been hired because I had a decade of expertise and was meant to have opinions and work with the Council to enact reforms. I told her that I had thought I was hired to be a leader, not merely to follow the Governor’s office. Emily recommended that I meet with other state government directors who have better managed their relationships with the Governor’s office, especially Ron Bersin at the Government Ethics Commission, in order to get a sense of how I should be behaving and what my relationship to the Governor’s office should be.

I once again asked what role it was that the Governor’s office thought I should have. I then asked her directly if it was her opinion that I needed to receive approval before Council proposals or reports. She demurred on this, stating that we apparently needed to have more meetings with Misha, etc. about my role. I told her that I was not comfortable meeting with Misha because he had treated me disrespectfully and in a manner that I found sexist and demeaning in our prior (January) meeting when he had lectured me about how I “knew nothing” about

government and should “be less ambitious.” Emily seemed surprised by this but conceded that perhaps future meetings should not include Misha.

At this point in the conversation, perhaps in part because of the emotional aspects of recalling the meeting with Misha (shortly before I gave birth to my daughter, now deceased), I began to get emotionally overwhelmed and, embarrassingly, began to cry. Emily attempted to comfort me and the conversation turned to my possible desire to take some bereavement leave in the near future. She left very shortly after.